
Pete Wilson, Governor

THRESHOLDS OF SIGNIFICANCE: Criteria for Defining Environmental Significance

CEQA Technical Advice Series



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The **CEQA Technical Advice Series** is intended to offer CEQA practitioners, particularly at the local government level, concise information about some aspect of the California Environmental Quality Act. This series of occasional papers is part of OPR's public education and training program for planners, developers, and others.

INTRODUCTION



Determining whether or not a project may result in a significant adverse environmental effect is one of the key aspects of the California Environmental Quality Act (CEQA). *Thresholds of Significance* discusses how public agencies, including cities, counties, and special districts, may adopt quantitative or qualitative thresholds which represent the point at which a given environmental effect will be considered significant. Enacting thresholds helps ensure that during the initial study phase of environmental review significance determinations will be made on a consistent and objective basis.

Neither CEQA nor the *CEQA Guidelines* describes specific thresholds of significance or how they may be used. Appendix G of the *Guidelines* lists a variety of potentially significant effects, but does not provide a means of judging whether they are indeed significant in a given set of circumstances. Appendix I, the

environmental checklist, prompts project reviewers to examine a spectrum of potential environmental effects, but leaves the determination of significance to the lead agency. Instead of dictating a one-size-fits-all approach, CEQA authorizes local governments to adopt by “ordinance, resolution, rule or regulation” their own “objectives, criteria, and procedures for the evaluation of projects” (Section 21082). Clearly, this enables local governments to adopt thresholds which will assist in determining the environmental significance of a project.

By explaining thresholds of significance and the practical advantages to public agencies, the Office of Planning and Research hopes to encourage more local agencies to use them. This advisory paper is not a mandate of any kind. It does not replace, nor does it amend, the *CEQA Guidelines*. All citations refer to the Public Resources Code unless otherwise noted.

1 THRESHOLD OF SIGNIFICANCE



Thresholds of significance are principally used to determine whether a project may have a significant environmental effect. They are not intended to be stand alone environmental policies, although they should certainly reflect the agency's policies. Thresholds are an analytical tool for judging significance.

When examining a project that is not exempt from CEQA, the Lead Agency usually prepares an initial study to determine whether the project may have a significant adverse effect on the environment. If no potential significant effects are identified, a negative declaration is prepared (Section 21080(c)). A mitigated negative declaration is called for if there are potential effects, but these can be mitigated to a level of insignificance (Section 21064.5). An EIR is required if there are significant environmental effects which cannot be avoided or mitigated (Sections 21100 and 21151). The *CEQA Guidelines* defines "significant effect on the environment" as: "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance" (*Guidelines* Section 15382).

The "threshold of significance" for a given environmental effect is simply that level at which the Lead Agency finds the effects of the project to be significant. "Threshold of significance" can be defined as:

A quantitative or qualitative standard, or set of criteria, pursuant to which the significance of a given environmental effect may be determined.

Ideally, a threshold of significance provides a clear differentiation of whether or not the project may result in a significant environmental

effect. More practically, a threshold will assist the Lead Agency in making this determination. In either case, thresholds do not substitute for the agency's use of careful judgment in determining significance (*CEQA Guidelines* Section 15064).

A threshold may be based on standards such as the following:

- A health-based standard such as air pollutant emission standards, water pollutant discharge standards, or noise levels.
- Service capacity standards such as traffic level of service, water supply capacity, or waste treatment plant capacity.
- Ecological tolerance standards such as physical carrying capacity, impacts on declared threatened or endangered species, loss of prime farmland, or wetland encroachment.
- Cultural resource standards such as impacts on historic structures or archaeological resources.
- Other standards relating to environmental quality issues, such as those listed in the *Guidelines*' Initial Study Checklist or Appendix G of the *Guidelines*.

Advantages

Adopting thresholds of significance promotes consistency, efficiency, and predictability in the initial study process.

Thresholds enable the Lead Agency to make consistent determinations of significance. Once thresholds have been adopted, every project in a given locale will be subject to a known set of impact assessment criteria. Project reviews undertaken by different staff members or at different times will employ a standard methodology. This increases certainty for both the

agency and the applicant, as well as the fairness of the process.

The Lead Agency's efficiency in preparing an initial study may be improved when the anticipated effects of a project can be examined pursuant to standard thresholds. Standardizing review criteria reduces duplication of effort. It may also offer some assurance that a comprehensive review has been made.

Standard threshold criteria are also valuable as a method of "scoping" a proposed project. They may assist the Lead Agency in identifying Responsible Agencies, as well as focusing its environmental analysis on effects expected to be significant.

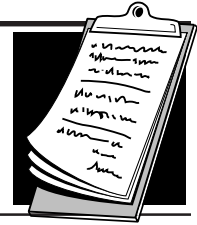
A threshold provides a rational basis for significance determinations. This complies with the *CEQA Guidelines*' requirement that a Lead Agency's determination of significance be "based to the extent possible on scientific and factual data" (*Guidelines* Section 15064). In this same vein, thresholds based on substantial evidence of significance bolster the defensibility of the determination.

The existence of a threshold may encourage project proponents to incorporate mitigation into the design of the project prior to submitting an application or a project's public review. The advantages of this are clear: the Lead Agency receives a project which has minimized its environmental impact; the project sponsor may avoid the need to prepare an EIR; when an EIR is required, it is properly focused on pertinent issues. Similarly, a threshold offers a target for revisions or mitigation actions which, if integrated into the project, would allow the preparation of a mitigated negative declaration rather than an EIR.

At least one court has shown a willingness to defer to local thresholds in order to decide a marginal situation where disagreement among experts or serious public controversy based on substantial evidence of a significant effect might require preparation of an EIR. In *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3rd 748, the City of Hayward's traffic impact thresholds played some part in convincing the court that evidence did not exist to support the existence of a significant impact on traffic.

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ESTABLISHING THRESHOLDS



Only a few agencies have formally adopted a comprehensive set of significance thresholds as part of their local CEQA guidelines. Many others utilize in-house criteria which have not been adopted by the governing body (i.e., city council, board of supervisors, district board, etc.). These written, administrative rules can be as comprehensive as a formally adopted ordinance or resolution, and offer some advantages. Proponents of this approach point out that administrative thresholds are easier to adopt and amend and are less subject to conflicting political pressures than thresholds which are adopted by the governing body. In addition, they contend that administrative adoption avoids potential difficulties and misunderstandings arising from attempting to explain the technically and legally complex CEQA process. It may be cheaper as well.

Nonetheless, OPR recommends that whenever possible the governing body adopt thresholds by either resolution or ordinance after a public hearing. We believe formal adoption is preferable because: (1) the thresholds will carry the full authority of the city or county, (2) the adoption process is a fully public undertaking, and (3) decision makers will have made a commitment to the thresholds by participating in their preparation and adoption.

Thresholds may be either qualitative or quantitative. Some effects, such as traffic or noise, lend themselves to numerical standards. Others, such as aesthetics or wildlife habitat are difficult to quantify and must rely upon qualitative descriptions. In either case, thresholds should be based on legal standards, studies, surveys, reports, or other data which can identify that point at which a given environmental effect becomes significant. Thresholds are intended to be analytic tools to assist in signifi-

cance determinations, not rigid standards. They should not result in de facto policy making. Along this same vein, thresholds must reflect CEQA's fair argument standard, as discussed under the Limitations section of this paper.

The significance of an activity may vary with its setting. For instance, a subdivision which would create 10 new lots may not be significant in an urban area, but may be significant in an undeveloped rural area. In such instances, the Lead Agency could adopt more than one threshold of significance for a given effect or include flexible standards which recognize differences in setting.

Drafting Thresholds

Developing thresholds is not simple. The first step should be to identify those effects for which thresholds are to be drafted. These might be chosen from the agency's initial study work sheet or, they may be based upon the significant effects identified in Appendix G of the *Guidelines*.

The next step should be to gather and evaluate existing information relative to the chosen effects. Review past Master Environmental Assessments (MEAs), EIRs, Negative Declarations, and related environmental studies—at what point or under what circumstances was a given effect deemed significant? Are there effective criteria by which to measure significance?

The agency should also rely upon its general plan as a source of environmental standards. For instance, policies for the conservation of agricultural land may yield a threshold based on soil type, project size, and water availability. The noise element may provide noise exposure standards. The circulation element may establish

level of service (LOS) standards for roads, sewers, and other services. Whenever possible, thresholds should be based on or otherwise reflect the community's adopted planning policies and regulations. The general plan and associated community plans, and specific plans can provide a long-term context for issues relating to land use, resources, and open space. By establishing thresholds, a jurisdiction is effectively recognizing the environmental ethics that are consistent with accepted local values.

A note of caution regarding the use of general plan policies: remember that a threshold represents that point at which a project's potential environmental effects are considered significant. The focus of the threshold is on actual limits to significant environmental impacts. When general plan policies or standards do not actually limit the potential impacts of a project to a particular level they are not effective measures of significance. Accordingly, at least two courts have held that "conformity with a general plan does not insulate a project from EIR review where it can be fairly argued that the project will generate significant environmental effects" (*Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872), citing *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325). In *Oro Fino Gold Mining*, the project proponent unsuccessfully argued that no significant impact existed because the proposed exploratory mine would not exceed the noise standards of the county general plan. The court dismissed this argument, marking that the county did not enforce those standards. Similarly, when examining a major road and sewer project, the *City of Antioch* court held that "general plan conformity alone does not effectively 'mitigate' significant effects of a project."

The Lead Agency should also survey other agencies for adopted standards which might lend themselves to thresholds. For example, the South Coast Air Quality Management District's *CEQA Air Quality Handbook* promulgates quantitative pollutant emissions thresholds. A county Congestion Management Agency will have LOS standards for regionally significant roads. Neighboring cities and counties may have

enacted pertinent thresholds of significance. Air, water, and toxic standards established by the Environmental Protection Agency and state and local agencies should also be reviewed. The Lead Agency should contact these other agencies to discuss incorporation of their thresholds into its own. Thresholds can and should be based on existing environmental laws and regulations whenever possible to reduce duplicative environmental reviews and take advantage of regulatory agency expertise.

Previously prepared studies and research are additional sources of thresholds, provided that they offer clear standards for assessing significance. These might include, but are not limited to, wetlands delineations, archaeological surveys, historic resources surveys or registers, capital improvement plans, and water district capacity studies.

Most agencies allow for some flexibility in the application of thresholds to individual projects. This is generally a good idea. It allows, for example, agencies to presume a certain project will have a significant effect if a threshold is exceeded, but allows case-by-case deviation from the threshold when unusual circumstances warrant.

Adoption Process

When enacting a resolution or ordinance establishing thresholds, the agency's legislative body should hold at least one public hearing before taking action. Because the thresholds relate to development projects, OPR recommends including the planning commission in the process of drafting thresholds. Through its public hearings, the commission can fine tune the work of staff as well as offer a forum for the concerns of its members and the public.

A jurisdiction may choose to offer more opportunities for public involvement. The City of Mountain View, for example, relied an informal committee of citizens, planners, environmentalists, and representatives of regional agencies to cooperatively draft its thresholds. This effort provided these interests a stake in the city's thresholds, ensured that the thresholds did

not conflict with the requirements of regional agencies, and, importantly, reflected community values. The process had the further advantage of educating decision makers about the environmental review process.

If the jurisdiction decides to adopt its thresholds administratively, e.g., by an agency rather than the governing body, OPR suggests: (1) adopting a single set of thresholds for use by all agencies and departments within the jurisdiction; (2) undertaking the same broad review of sources recommended above; and (3) providing the public with opportunities to assist in drafting or at least review and comment on the proposed thresholds prior to adopting them.

Thresholds can offer the same basic advantages whether they are adopted legislatively or administratively. Jurisdictions will weigh their own political and administrative situation before deciding which style of adoption would work best for them.

Contents

A fully-fledged threshold should contain, in some form, the following elements:

- A brief definition of the potential effect.
- Reasons for its significance.
- Threshold criteria for significance.
- Geographic scope of the criteria, if applicable.
- References to the facts or data upon which the criteria are based.

The threshold may also contain a menu of standardized mitigation measures. These should be flexible enough to be tailored to individual projects. Standardized measures offer project proponents the opportunity to design their projects so that environmental effects are minimized from an early stage. Standardized measures can also assure the agency and the public that potential effects will be mitigated on a consistent basis and that the threshold represents the boundary between significance and insignificance.

The description of a threshold may be long or short depending upon its subject. In a juris-

diction with diverse locales, there may be more than one or even a sliding scale of thresholds for a single effect. For example, Ventura County has adopted two thresholds for surface water quality impacts based on project location within specified groundwater basins. Santa Barbara County uses a weighted point system to determine whether a given project will have a significant impact on agricultural lands.

OPR does not suggest that an agency establish a threshold for every conceivable environmental effect. This may be neither practical nor desirable. There may be certain effects, such as aesthetic impacts, which for one reason or another are not easily described. There is no advantage to adopting a threshold which does not clarify or otherwise improve the process of determining significance.

Once adopted, thresholds should be reviewed periodically and revised as necessary to incorporate changes as conditions and regulations change.

Appendix 2 contains excerpts from adopted thresholds. OPR does not necessarily endorse these specific thresholds; they are simply offered as representative examples of how jurisdictions have chosen to define particular levels of significance.

Ten Tips for Thresholds

- 1** Write the threshold criteria clearly and succinctly. Thresholds, whether quantitative or qualitative, should be as objective as possible so that they can be applied in a consistent manner.
- 2** Enact only those thresholds with a basis in fact (technical thresholds such as traffic levels and air quality standards) or in adopted policy (community thresholds such as aesthetics), and reference that basis. A factual basis may be developed as part of the process of preparing thresholds. Further, the standards or regulations upon which the thresholds are based must be enforceable.

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- 3** Do not force an issue. If a clear threshold does not exist, or existing policies are vague and unenforceable, simply do not adopt a threshold for that effect.
- 4** Harmonize the thresholds with those of other agencies to the extent possible, particularly the technical thresholds of regulatory agencies such as an air quality management district or water quality control board.
- 5** Review thresholds periodically to ensure their continued relevance and accuracy.
- 6** Revise thresholds promptly upon the receipt of pertinent new information.
- 7** Adopt quantitative rather than qualitative thresholds whenever reasonably possible.
- 8** Base thresholds on existing standards and regulations whenever possible.
- 9** Adopt thresholds as part of the local CEQA guidelines, with public review, either by ordinance or resolution.
- 10** Place all thresholds in a single document and in a format that encourages their use during the initial study process.

3 LIMITATIONS



Thresholds can help determine the significance of environmental effects, but are not necessarily conclusive. A lead agency's significance determination can be challenged if opponents of the determination produce substantial evidence supporting a fair argument that a significant effect does exist. Even more troublesome, what happens when the thresholds adopted by the Lead Agency are less stringent than those adopted by another agency for the same effect? Can project opponents (other than a Responsible Agency, which is limited by Section 21167.3) reference the stricter thresholds as evidence of a significant environmental effect?

The original determination whether to prepare either a Negative Declaration or an EIR is subject to the "fair argument" test (*Laurel Heights Improvement Assoc. v. U.C. Regents* (1993) 47 Cal.3d 376). In other words, when a fair argument can be raised on the basis of substantial evidence in the record that the project may have a significant adverse environmental impact — even if evidence also exists to the contrary — then an EIR is required. If another agency's more stringent thresholds are based upon substantial evidence of environmental effects, then the fair argument test would

seem to require preparation of an EIR even though the project does not exceed the Lead Agency's threshold (this would not apply to subsequent activities under a program EIR or the decision to prepare a subsequent/supplemental EIR). Although there is no absolute means of avoiding this problem, the agency preparing the thresholds may minimize it by consulting with other agencies during the drafting process and working out inconsistencies before adoption.

Furthermore, significance thresholds may not obviate the need to provide information to support the determinations made in the initial study. Simply filling out an initial study checklist without citing supporting information is insufficient to show the absence of significant effects (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296). Proper thresholds give the checklist reviewer sufficient background to make reasonable determinations on the basis of facts and should be referenced in the initial study. An initial study is not intended to provide the full-blown analysis that would be contained in a complete EIR (*Leonoff v. Monterey County Board of Supervisors* (1990) 222 Cal.App.3d 1337) and, by inference, neither is the discussion of thresholds.

4 FINAL WORD



Thresholds are an underused means of making CEQA practice more rational, predictable, and scientific. Enacting thresholds of significance offers many advantages for local agencies. A project's potential significant environmental effects may be readily identified. Carefully drawn thresholds can ensure that environmental reviews are consistent and predictable from project to project. Thresholds based on existing local policies and environmental regulations offer the opportunity to integrate those policies and regulations through

the CEQA process. The background data upon which thresholds are based may offer evidence of the existence or absence of a significant effect, supporting the Lead Agency's decision to prepare an EIR or negative declaration, respectively. Thresholds may be adopted for a comprehensive list of potential effects, or for only a few effects; either approach can be useful.

Thresholds are a valuable CEQA tool that OPR recommends for more widespread use among Lead Agencies.

APPENDIX 1



EXCERPTS FROM THE PUBLIC RESOURCES CODE

21082. All public agencies shall adopt by ordinance, resolution, rule, or regulation, objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations pursuant to this division. A school district, or any other district, whose boundaries are coterminous with a city, county, or city and county, may utilize the objectives, criteria, and procedures of the city, county, or city and county, as may be applicable, in which case, the school district or other district need not adopt objectives, criteria, and procedures of its own. The objectives, criteria, and procedures shall be consistent with the provisions of this division and with the Guidelines adopted by the Secretary of the Resources Agency pursuant to Section 21083. Such objectives, criteria, and procedures shall be adopted by each public agency no later than 60 days after the Secretary of the Resources Agency has adopted guidelines pursuant to Section 21083.

EXCERPTS FROM THE CEQA GUIDELINES

15355. “Cumulative impacts” refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

(a) The individual effects may be changes resulting from a single project or a number of separate projects.

(b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

15382. “Significant effect on the environment” means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.